

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA,	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	CASE NO. 7:08-cv-196
	)	
0.98 ACRES OF LAND, more or less,	)	
situated in HIDALGO COUNTY, TEXAS;	)	
and PAMELA RIVAS, et al.,	)	
	)	
<i>Defendants.</i>	)	

COMPLAINT IN CONDEMNATION

1. This is an action of a civil nature brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acting Executive Director, Asset Management, of U.S. Customs and Border Protection, for the taking of an interest in property, under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property is taken under and in accordance with the Act of Congress approved on February 25, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

4. The public purpose for which said interest in property is taken is to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States-Mexico border within the State of Texas.

5. A general description of the land being taken is set forth in Schedule “C” attached hereto and made a part hereof. A plan showing the property being taken is shown on Schedule “D” attached hereto and made a part hereof.

6. The interest(s) being acquired in the property is described in Schedule “E” attached hereto and made a part hereof.

7. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule “G” attached hereto and made a part hereof.

8. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and exigible.

In addition to those persons named, there are or may be others who have or may have some interest in the property or interests to be taken, whose names are unknown to the Plaintiff, and such persons are made parties in the action under the designation “Other Interested Parties.”

WHEREFORE, Plaintiff requests judgment that the property and interests be condemned, and that just compensation for the taking be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.  
United States Attorney

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## **SCHEDULE C**

SCHEDULE "C"  
LEGAL DESCRIPTION

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas, et al.

Acres: 0.41

BEING a certain tract of land containing 0.41 acres, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land approximately 60 feet in width and approximately 300 feet in length, which crosses the land of the subject owner, and contains 0.41 acres, more or less, located within the western one-third of the 2.61 acre parent tract, and as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No. 2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as Hidalgo County Appraisal District, Property ID. No. R221782.

Tract: RGV-MCS-1004

SCHEDULE "C" (Cont.)  
LEGAL DESCRIPTION

PERPETUAL ROAD EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-1      Owner: Pamela Rivas, et al.      Acres: 0.37

BEING a certain tract of land containing 0.37 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly, said strip being approximately 40 feet in width and approximately 399 feet in length, which crosses the land of the subject owner, and contains 0.37 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas

This tract is further identified as Hidalgo County Appraisal District, Property ID. No. R221782.

Tract: RGV-MCS-1004E-1

SCHEDULE "C" (Cont.)

LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-2      Owner: Pamela Rivas, et al.      Acres: 0.10

BEING a certain tract of land containing 0.10 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly adjacent to the north side of the perpetual easement, said strip being approximately 10 feet in width and approximately 421 feet in length, which crosses the land of the subject owner, and contains 0.10 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-2

SCHEDULE "C" (Cont.)  
LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-3      Owner: Pamela Rivas, et al.      Acres: 0.09

BEING a certain tract of land containing 0.09 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly adjacent to the south side of the perpetual easement, said strip being approximately 10 feet in width and approximately 363 feet in length, which crosses the land of the subject owner, and contains 0.09 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-3



SCHEDULE "C" (Cont.)

LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-4      Owner: Pamela Rivas, et al.      Acres: 0.01

BEING a certain tract of land containing 0.01 acres, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land in the southeast corner of said block and running adjacent to the east line of said block, said strip being approximately 10 feet in width and approximately 36 feet in length, which crosses the land of the subject owner, and contains 0.01 acres, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-4

## **SCHEDULE D**

SCHEDULE "D"  
FEE, EXCLUDING MINERALS



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004  
Owner: Pamela Rivas, et al.  
Acreage: 0.41  
Hidalgo County, TX  
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed  
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)  
PERPETUAL ROAD EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-1  
Owner: Pamela Rivas, et al.  
Acreage: 0.37  
Hidalgo County, TX  
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed  
Records of Hidalgo County, Texas



SCHEDULE "D" (Cont.)  
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-2  
Owner: Pamela Rivas, et al.  
Acreage: 0.10  
Hidalgo County, TX  
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed  
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)  
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-3  
Owner: Pamela Rivas, et al.  
Acreage: 0.09  
Hidalgo County, TX  
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed  
Records of Hidalgo County, Texas



SCHEDULE "D" (Cont.)  
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-4  
Owner: Pamela Rivas, et al.  
Acreage: 0.01  
Hidalgo County, TX  
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed  
Records of Hidalgo County, Texas

## **SCHEDULE E**



SCHEDULE "E"  
ESTATE TAKEN

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas, et al.

Acres: 0.41

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all interests in minerals and the rights appurtenant thereto; reserving the following rights and interests in the property being acquired by the United States as described herein: a perpetual right-of-way on both sides of the Federal border barrier for the purpose of gaining access to condemnee's land on the other side of the border barrier; and, the United States grants to the condemnee a perpetual right-of-way across other lands of the United States along and on both sides of the border barrier to reach and utilize the nearest border barrier gate for the purpose of accessing condemnee's lands on the other side. The purpose of this provision is to clarify that the United States is not prohibiting access to condemnee's remaining lands between the border barrier and the Rio Grande River, but is providing a permanent right-of-way to condemnee and all landowners similarly situated to access the nearest border barrier gate which allows entry to the other side of the border barrier from which unacquired land can be accessed.

SCHEDULE "E" (Cont.)  
ESTATE TAKEN

PERPETUAL ROAD EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-1      Owner: Pamela Rivas, et al.      Acres: 0.37

A perpetual and assignable easement and right-of-way in, over and across the land described in Schedule "C" for the location, construction, operation, maintenance, alteration and replacement of a road and appurtenances thereto; together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads, highways, public utilities, railroads and pipelines; reserving, however, to the owners, their successors and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

SCHEDULE "E" (Cont.)  
ESTATE TAKEN

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-2, E-3, and E-4

Owner: Pamela Rivas, et al.

Acres: 0.20

A temporary and assignable easement and right-of-way in, over and across the land described in Schedule "C" for a period not to exceed 24 months, beginning with date possession of the land is granted to the United States, for the location, construction, operation, maintenance, alteration and replacement of roads and appurtenances thereto; together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads, highways, public utilities, railroads and pipelines; reserving, however, to the owners, their successors and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

## **SCHEDULE G**

SCHEDULE "G"  
NAMES AND ADDRESSES OF INTERESTED PARTIES:

Pamela Rivas  
4719 N. Gwin Rd.  
Edinburg, TX 78541

Armando Barrera, Jr., RTA  
Hidalgo County Tax Assessor-Collector  
Administration Building  
2800 South U.S. Highway 281  
Edinburg, TX 78539